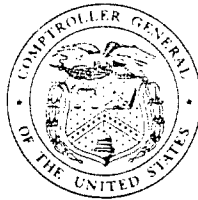


DECISION

THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

*Proc I**9654*

FILE: B-193364

DATE: March 27, 1979

MATTER OF: Security Assistance Forces and Equipment OHG

DLG01388

DIGEST:

*overseas
designation*

1. Protest to GAO must be filed by protester. Protester's request that procuring activity forward protest to GAO does not constitute filing.
2. [Protest filed with GAO more than 10 working days after initial adverse agency action (~~denial of protest~~) is untimely] under Bid Protest Procedures, 4 C.F.R. § 20.2(a) (1978), and not for consideration on merits.

The Department of the Army (Army) issued request for quotations DEH-78-E-016 for the procurement of a security alarm system for an Army facility in West Germany. The procurement was made pursuant to the small purchase procedures. Security Assistance Forces and Equipment OHG (SAFE) and Johnson Controls AG (Johnson) submitted quotes.

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On November 14, 1977, the Army awarded the contract to Johnson. Although Johnson's offered price was higher than SAFE's, Johnson offered a shorter delivery and installation period. SAFE protested the award to the procuring activity on November 22, 1977.

By letter of June 12, 1978, to the procuring activity, SAFE acknowledged that the Army's letter of May 31, 1978, constituted a denial of its protest. Further, SAFE advised that its letter constituted a protest to our Office, and the contracting officer should have forwarded the letter and relevant documents to the General Accounting Office. The Army advised SAFE that it must file its protest with our Office.

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In this regard, the Army correctly points out that a protester must file its protest directly with our Office. Even if the procuring activity had complied with SAFE's request to forward its letter and pertinent documents to our Office, it would not constitute the filing of a protest. Karl Doll GmbH, B-187109, August 30, 1976, 76-2 CPD 205; Energy Piping Systems, Inc., B-185573, January 29, 1976, 76-1 CPD 64.

SAFE subsequently filed an identical protest with our Office on October 30, 1978, alleging that it was the low offeror, and the solicitation did not establish prompt delivery and installation as an overriding factor in selecting an awardee.

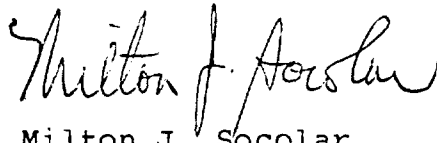
Since SAFE's protest was not filed within 10 working days after initial adverse agency action (denial of its protest by the Army's letter dated May 31, 1978), SAFE's protest is untimely under our Bid Protest Procedures, 4 C.F.R. § 20.2(a) (1978), and not for consideration on the merits. Graphic Litho Corporation, B-190928, January 9, 1978, 78-1 CPD 18. Title 4 C.F.R. § 20.2(a) (1978) provides in pertinent part as follows:

"(a) Protesters are urged to seek resolution of their complaints initially with the contracting agency. If a protest has been filed initially with the contracting agency, any subsequent protest to the General Accounting Office filed within 10 days of formal notification of or actual or constructive knowledge of initial adverse agency action will be considered * * *"

Finally, SAFE contends that it learned only after reading the Army's report to our Office, dated January 12, 1979, concerning its protest, that SAFE's offer was not accepted because, among other things, SAFE allegedly did not discuss the contractual requirements with the using activity, failed to make a site inspection, and did not furnish the procuring activity with an itemized list of compliant equipment.

However, the record contains a statement by an Army representative to the effect that SAFE was advised in late November 1977 that these matters were considered by the Army in not accepting SAFE's offer. Since SAFE did not protest on these bases until January 29, 1979, this portion of its protest is also untimely.

Based upon the foregoing, the protest is dismissed as untimely.

A handwritten signature in cursive script, reading "Milton J. Socolar".

Milton J. Socolar
General Counsel